

**REMARKS**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. The Examiner has rejected Claims 30, 31, 34-36, 42, 53, and 54 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner has also rejected Claims 30, 31, 34-36, 42, 53, and 54 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,286,185 to Ramsauer (“Ramsauer I”) in view of U.S. Patent No. 1,950,205 to Young (“Young”) and U.S. Patent No. 5,435,159 to Ramsauer (“Ramsauer II”).

Claims 1-29, 37, and 39 stand previously canceled. Claims 32, 33, 38, 40-52, and 55-58 stand previously withdrawn. Claims 30-36, 38, and 40-58 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner’s outstanding rejections to current Claims 30, 31, 34-36, 53, and 54. An early Notice of Allowance is therefore requested.

**I. THE CURRENT OFFICE ACTION IS DEFICIENT AND MUST BE REISSUED**

As an initial matter, Examiner has unduly limited the scope if the claims to only be the embodiment shown in Fig. 11B. However, as will be explained in detail below, Figs. 19D-19H clearly show the below discussed language of independent Claim 30 and dependent Claim 42. As such, the Examiner has **not** given the claims their broadest reasonable scope, but rather has **improperly** limited the scope of the claims to a single specially disclosed embodiment. In fact, it appears that Examiner has completely ignored certain claim language, and rather has rejected Fig. 11B as being rendered obvious. This is seen clearly when Examiner asserts that “Applicant has not disclosed this aspect occurs in the elected embodiment in the specification.” The Examiner then goes on to address what is shown in Fig. 11B of the current Application, rather than actually addressing the specific language of Claims 30 and 42, or Applicant’s arguments related thereto. In rejecting Fig. 11B of the current application, Examiner has **not** rejected the **actual claims**.

In fact, Examiner even states that she is ignore the claim language by stating that “the holding elements in both figures are separated and not touching in the figures”, and then comparing the figures where the holding elements are **not** touching to the

disclosure of Young to come to the conclusion that Young shows the holding elements as claimed, which require that a flat surface of one flat piece of the two flat pieces touches a flat surface of the other flat piece of the two flat pieces.

Accordingly, Applicant respectfully asserts that the current Office Action is deficient for failing to actually address the claimed invention, or give the claims their proper scope. Therefore, Applicant respectfully asserts that Examiner **must** either allow the claims as discussed below or issue a new Office Action giving the claims their proper scope.

## **II. SUMMARY OF RELEVANT LAW**

The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

## **III. OBJECTION TO THE DRAWINGS UNDER 37 C.F.R. § 1.83(A)**

On page 2 of the current Office Action, the Examiner objects to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims. These rejections are objections traversed and believed overcome in view of the following discussion.

Figs. 19D-19H (which relate to the elected embodiments as stated by Examiner on Page 2 of the Office Action dated 10/16/2008), show a hinge, comprising a body part 1030 having inside a channel (see cross section of Fig. 19E), two metal pieces 1136 lying side by side and being held by compression spring 1142, being placed inside a rectangular opening of each of the two metal pieces 1136, Fig. 19F, in such a way that those three parts due to spring force and friction between spring and edges of the opening form a stable manageable unit, as shown in 19F and 19G, so that it may be handled as a unit and if

necessary may be placed into a channel in body pan 1130. See Application, Fig 19E and ¶ [0105].

Any movement of the two metal pieces 1136 along their length axis out of the position shown in Figs. 19 where the openings 1190 for the spring 1142 of the two metal pieces are aligned to one another reduces the space provided for the spring and thereby presses the spring to a shorter length extension and enhances the pressure.

Accordingly, the drawings of the subject application show every feature of the invention specified in the claims, including (1) the “two flat metal pieces or plastic pieces lying next to one another with a flat surface of one flat piece of the two flat pieces touching a flat surface of the other flat piece of the two flat pieces”, and (2) two flat metal pieces being jointly held by the spring so as to “form a manageable unit that is stable in itself”. See amended Figs. 19D-19G, reference number 1136.

Accordingly, Applicant respectfully asserts that the drawings do in fact show every feature of the invention specified in the claims. Therefore, Applicant respectfully request Examiners withdraw the current objection to the drawings under 37 C.F.R. § 1.83(a) as not showing every feature of the invention specified in the claims.

#### **IV. REJECTION OF CLAIMS 30, 31, 34-36, 42, 53, AND 54 UNDER 35 U.S.C.**

##### **§ 112, FIRST PARAGRAPH**

On page 3 of the current Office Action, the Examiner rejects Claims 30, 31, 34-36, 53, and 54 pursuant to 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. These rejections are respectfully traversed and believed overcome in view of the following discussion.

##### **A. The Current Rejeciton Under 35 U.S.C. § 112, First Paragraph, is Deficient and Must be Withdrawn**

As an initial matter, this Applicant notes that this entire rejection is deficient. More specifically, Examiner is **not** contending that the claims are not supported by the written description **as a whole**. Rather Examiner is asserting that the claims are drawn to a non-elected species. This is not a rejection under 35 U.S.C. § 112, first paragraph, but rather seems to be what should have been made the substance of a Notice of Non-Compliant for

amending the claims to be drawn to a non-elected species. Since Examiner cannot plausibly support an assertion that the claims are not supported by the written description **as a whole**, Applicant respectfully asserts that the current rejection under 35 U.S.C. § 112, first paragraph, is inherently deficient, and must be withdrawn.

### **B. The Claims are Supported by the Elected Embodiments**

In addition, as explained above in relation to the objection to the drawings, Figs. 19D-19G show the features (1) the “two flat metal pieces or plastic pieces lying next to one another with a flat surface of one flat piece of the two flat pieces touching a flat surface of the other flat piece of the two flat pieces”, and (2) two flat metal pieces being jointly held by the spring so as to “form a manageable unit that is stable in itself”. As such, the flat pieces touching does occur in one of the elected embodiments.

### **C. Conclusion**

For all of the reasons above, Applicant respectfully asserts that Examiner has failed to establish that the claims are not supported by an elected embodiment, let alone that the claims are not supported by the written description **as a whole**. Accordingly, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case that the claims do not comply with the written description requirement. Therefore, Applicant respectfully requests Examiner withdraw the rejection of Claims 30, 31, 34-36, 53, and 54 pursuant to 35 U.S.C. § 112, first paragraph.

## **V. REJECTION OF CLAIMS 30, 31, 34-36, 42, 53, AND 54 UNDER 35 U.S.C. § 103(A) BASED ON RAMSAUER I IN VIEW OF YOUNG AND RAMSAUER II**

On page 4 of the current Office Action, the Examiner rejects Claims 30, 31, 34-36, 53, and 54 pursuant to 35 U.S.C. § 103(a) as being unpatentable over Ramsauer I in view of Young and Ramsauer II. These rejections are respectfully traversed and believed overcome in view of the following discussion.

### **A. Claims 30, 31, 34-36, 42, 53, and 54**

#### ***(1) Prior Arguments***

Amended, independent Claim 30 states, in part:

“wherein the holding elements are formed by two flat metal pieces or plastic pieces lying next to one another **with a flat surface of one flat piece of the two flat pieces touching a flat surface of the other flat piece of the two flat pieces**, each flat piece having a rectangular opening or breakthrough, these two openings or breakthroughs together forming a rectangular space which receives a spiral pressure spring by at least a portion of its diameter.” (emphasis added).

As such, Claim 30 requires that a flat surface of one flat piece **touches** a flat surface of the other flat piece.

However, Young teaches that the two lugs 40 are actually **separated** from each other by a gap. Thus, while the spring 41 touches each of the lugs 40, the two lugs 40 **never** actual touch each other. As such, Young fails to disclose the a flat surface of one flat piece holding element **touches** a flat surface of the other flat piece holding element, as stated in Claim 30. Further, none of the other references to which Examiner cites cures this deficiency of Young.

## *(2) Examiner's Response*

Examiner responds that the aspect of Claim 30 above does not occur in any of the elected embodiments. As such, Examiner ignores the claim language, and instead bases the rejection on what is shown in Fig. 11B rather than what is set forth in the actual claim language itself. In fact, Examiner even states that she is ignore the claim language by stating that “the holding elements in both figures are separated and not touching in the figures”, and then comparing the figures where the holding elements are **not** touching to the disclosure of Young to come to the conclusion that Young shows the holding elements as claimed, which require that a flat surface of one flat piece of the two flat pieces **touches** a flat surface of the other flat piece of the two flat pieces.

Since the examiner ignores the language of Claim 30 and instead bases the rejection on a figure, the current rejection is deficient and **must** be withdrawn.

In addition, also as explained above, the claimed features **are** shown in the elected embodiments (i.e., Figs. 19D-19H). More specifically, Fig. 19G shows how the holding elements are formed by two flat metal pieces or plastic pieces (see elements 1136) lying next to one another **“with a flat surface of one flat piece of the two flat pieces**

**touching a flat surface of the other flat piece of the two flat pieces".** Further, Fig. 19F shows how each flat piece has a rectangular opening or breakthrough (see element 1190), these two openings or breakthroughs together forming a rectangular space which receives a spiral pressure spring (see element 1142) by at least a portion of its diameter.

As discussed above Young fails to disclose the a flat surface of one flat piece holding element **touches** a flat surface of the other flat piece holding element, as stated in Claim 30. In fact, Examiner even seems to admit that Young fails to disclose this limitation, since Examiner compares the disclosure of Young to a drawing in the current Application which Examiner asserts shows "the holding elements in both figures are separated and not touching in the figures". See Current Office Action, P. 9.

According to the invention the two holding elements do touch one another as is called for according to amended claim 30. One embodiment is shown in Fig. 3C, where two hooks being part of the two holding elements have surfaces touching one another directly. The hook arrangement is described in [0088] with respect to Fig. 3A to 3C. In Fig. 3B and Fig. 6B hooks touch a pin 156. Furthermore, the Holding elements 136-1 and 136-2 shown in Fig. 3A overlap one another and guide one another inside the cylinder 50 by mutually touching surfaces, just like in Fig. 19E the slides 1136, or in Fig. 11F (as amended) the slides 636-1 and 636-2.

Paragraph [0090] describes the embodiment of Fig. 8A to 8H which has holding elements likewise touching one another directly, not only by means of a common spring as in Young, but by hooks 354 (Fig. 8C) and by abutting surfaces parallel to the direction of sliding movement.

Also, the holding elements 536-1 and 536-2 do touch one another directly in the embodiment of Fig. 11A-11C.

In Fig. 11E, the two holding elements 636-1 and 636-2 also touch directly by surfaces lying in the direction of the sliding movement This surface lies between the room for spring 642 and the toothed strips 87-1 and 87-2 for moving the elements 636-1 and 636-2 with a toothed tool 84 after insertion and turning same.

The same arguments are applicable to embodiment shown in Fig. 11A-11D.

***(3) Conclusion***

Accordingly, for all of the reasons discussed above, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of independent Claim 30, and corresponding Claims 31, 34-36, 42, 53, and 54 because they are each ultimately dependent from Claim 30. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 30, 31, 34-36, 42, 53, and 54 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,286,185 to Ramsauer in view of U.S. Patent No. 1,950,205 to Young and U.S. Patent No. 5,435,159 to Ramsauer.

**B. Claim 42*****(1) Prior Arguments***

As stated above, Claim 42 depends from independent Claim 30. As Claim 30 is allowable, so must be Claim 42.

In addition, Claim 42 states in part:

“wherein the two flat pieces of the holding elements are held jointly by the spring in such a way that **these three parts, independent of the body part, form a manageable unit that is stable in itself.**” (emphasis added).

Thus, Claim 42 explicitly requires that the two flat pieces of the holding elements and the spring **form a manageable unit** that is **stable** in itself, **independent of the body part**.

Examiner points to Young as disclosing the above language. This, however, misinterprets the teachings of Young.

In particular, the latching lugs 40 and spring 41 of Young need the pin 35 (which resembles the “body part” Claim 30) to keep the latching lugs 40 together. As such, the latching lugs 40 and spring 41 of Young do **not** form a **manageable unit** that is **stable** in itself, **independent of the body part**, as stated in Claim 42.

***(2) Examiner’s Response***

In response, Examiner states that Applicant has not shown that the above claim language relates to the elected embodiment. As such, Examiner seems to have refused to give this claim language patentable weight.

As an initial matter, the Examiner **must** give all of the claim language patentable weight in making an obviousness rejection. Examiner simply cannot ignore certain claim language simply because she does not know where to find it in the specification of the current Application. For this reason alone, the current rejection of Claim 42 is deficient and must be withdrawn.

In addition, as explained above in reference to Examiner's objections to the drawings, and rejections under 35 U.S.C. §§ 112 and 103(a), the disclosure of the elected embodiments **do** support the above language of Claim 42. More specifically, Figs. 19F and 19G show one embodiment of how the two pieces 1136 and the spring 1142 **form a manageable unit that is stable in itself, independent of the body part.** As discussed above, this claim language is **not** taught or suggested by the cited references.

### *(3) Conclusion*

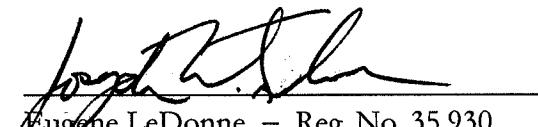
Accordingly, for all the reasons discussed above, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of Claim 42. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claim 42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,286,185 to Ramsauer in view of U.S. Patent No. 1,950,205 to Young and U.S. Patent No. 5,435,159 to Ramsauer.

## **VI. WITHDRAWN CLAIMS 32, 33, 38, 40, 41, 43-52, AND 55-58**

Claims 32, 33, 38, 40, 41, 43-52, and 55-58 are each ultimately dependent from independent Claim 30. As Claim 30 is allowable, so must be Claims 32, 33, 38, 40, 41, 43-52, and 55-58. Accordingly, Applicant respectfully asserts that Claims 32, 33, 38, 40, 41, 43-52, and 55-58 are now in allowable form. Therefore, Applicant respectfully requests Examiner rejoin and allow currently withdrawn Claims 32, 33, 38, 40, 41, 43-52, and 55-58.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



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